
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

CHRIS BURGESS,

Plaintiff,

*versus*SERGEANT NINO, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:20-CV-102

**ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Chris Burgess, a prisoner confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Sergeant Nino, Kevin Smith, Bryan Williams, FNU Vadilier, and Amy Oliver.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable laws and orders of this court. On October 4, 2021, the magistrate judge recommended dismissing the action pursuant to Federal Rule of Civil Procedure 4 due to Plaintiff's failure to serve the defendants.

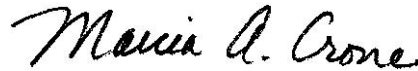
The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed a response to the magistrate judge's Report and Recommendation, which the court liberally construes as objections.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes

the objections are without merit. Plaintiff paid the filing fee and was first issued summonses to serve the defendants on June 1, 2020. Plaintiff has been given multiple extensions of time to serve the defendants, but, despite the passage of nearly three years, Plaintiff has failed to effect service. As a result, this action should be dismissed pursuant to Rule 4. Because the statute of limitations would bar Plaintiff from filing a new civil action concerning the events at issue in this action, the court will reinstate this action if Plaintiff provides proof of service within thirty days after the judgment is entered.

Accordingly, Plaintiff's objections (#48) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (#40) is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 21st day of February, 2023.

Handwritten signature of Marcia A. Crone in black ink.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE